

Country-Wide Ins. Co. v Juste

2021 NY Slip Op 31038(U)

March 30, 2021

Supreme Court, New York County

Docket Number: 650797/2020

Judge: Louis L. Nock

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This opinion is uncorrected and not selected for official publication.

File No.: 20CW1000841/000296827-001
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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COUNTRY-WIDE INSURANCE COMPANY

Index No.: 650797/2020

Plaintiff,

- against -

JUDGMENT

JEFFERSON JUSTE

("Eligible Injured Party Defendant"),

And

NEWYORK-PRESBYTERIAN/BROOKLYN METHODIST,
NEW YORK PRESBYTERIAN AMBULANCE,
EAST MANHATTAN DIAGNOSTIC IMAGING, P.C.,
HAAR ORTHOPAEDICS & SPORTS MEDICINE, P.C.,
FIRST ALTERNATIVE PLM ACUPUNCTURE P.C.,
METROPOLITAN MEDICAL & SURGICAL P.C.,
AVALON RADIOLOGY P.C.,
PAIN FREE LEAVING INC,
TRIM MEDICAL SERVICES P.C.,
GRAMERCY PARK PHYSICAL THERAPY P.C.,
CURVE CHIROPRACTIC P.C., and
ELECTROPHYSIOLOGIC MEDICAL DIAGNOSTICS,
P.C.

(" Medical Provider Defendants").

Defendant(s).

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HON. LOUIS L. NOCK
HON. _____ **J.S.C.**, J.S.C

This case arises from an automobile accident on July 1, 2014 where defendant JEFFERSON JUSTE was involved in a motor vehicle accident while allegedly in a vehicle insured by plaintiff, Country-Wide Insurance Company ("Plaintiff"). Defendant made a claim to Plaintiff as a purported injured person under as insurance policy issued by Plaintiff (PS9361794 13).

Plaintiff commenced an action on or about February 4, 2020, by the filing of a Summons and Complaint seeking a declaratory judgment against JEFFERSON JUSTE, NEWYORK-PRESBYTERIAN/BROOKLYN METHODIST, NEW YORK PRESBYTERIAN AMBULANCE, EAST MANHATTAN DIAGNOSTIC IMAGING, P.C, ~~HAAR ORTHOPAEDICS & SPORTS MEDICINE, P.C.~~, FIRST ALTERNATIVE PLM ACUPUNCTURE P.C., METROPOLITAN MEDICAL & SURGICAL P.C., AVALON RADIOLOGY P.C., PAIN FREE LEAVING INC, TRIM MEDICAL SERVICES P.C., GRAMERCY PARK PHYSICAL THERAPY P.C., CURVE CHIROPRACTIC P.C., and ELECTROPHYSIOLOGIC MEDICAL DIAGNOSTICS, P.C., due to the alleged breach of contract by JEFFERSON JUSTE in failing to appear for a properly requested and scheduled Examination Under Oath. Plaintiff seeks a declaration that JEFFERSON JUSTE is not an eligible injured person entitled to no-fault benefits under the Policy, and that Plaintiff is not obligated to reimburse JEFFERSON JUSTE for alleged medical treatment, therapy and/or medical supplies rendered.

Plaintiff now moves for a default judgment pursuant to CPLR § 3215 against, JEFFERSON JUSTE, NEWYORK-PRESBYTERIAN/BROOKLYN METHODIST, NEW YORK PRESBYTERIAN AMBULANCE, EAST MANHATTAN DIAGNOSTIC IMAGING, P.C, ~~HAAR ORTHOPAEDICS & SPORTS MEDICINE, P.C.~~, FIRST ALTERNATIVE PLM ACUPUNCTURE P.C., METROPOLITAN MEDICAL & SURGICAL P.C., AVALON RADIOLOGY P.C., PAIN FREE LEAVING INC, TRIM MEDICAL SERVICES P.C., GRAMERCY PARK PHYSICAL THERAPY P.C., CURVE CHIROPRACTIC P.C., and ELECTROPHYSIOLOGIC MEDICAL DIAGNOSTICS, P.C. No opposition is submitted.

Plaintiff submits affidavits of service showing service upon JEFFERSON JUSTE on March 7, 2020 and the Medical Provider Defendants on February 28, 2020, and September 10, 2020. Plaintiff submits the affidavit of Jessica Mena-Sibrian, who is employed as a No-fault litigation/Arbitration Supervisor and the affidavit of Annie Persaud f/k/a Fatima Zuhra, the EUO Clerk at Country-Wide Insurance Company, in support of Plaintiff's motion for default judgment.

WHEREFORE, it is hereby,

ORDERED that Plaintiff's motion for default judgment against, JEFFERSON JUSTE, NEWYORK-PRESBYTERIAN/BROOKLYN METHODIST, NEW YORK PRESBYTERIAN AMBULANCE, EAST MANHATTAN DIAGNOSTIC IMAGING, P.C., ~~HAAR ORTHOPAEDICS & SPORTS MEDICINE, P.C.~~, FIRST ALTERNATIVE PLM ACUPUNCTURE P.C., METROPOLITAN MEDICAL & SURGICAL P.C., AVALON RADIOLOGY P.C., PAIN FREE LEAVING INC, TRIM MEDICAL SERVICES P.C., GRAMERCY PARK PHYSICAL THERAPY P.C., CURVE CHIROPRACTIC P.C., and ELECTROPHYSIOLOGIC MEDICAL DIAGNOSTICS, P.C., is granted; and it is further,

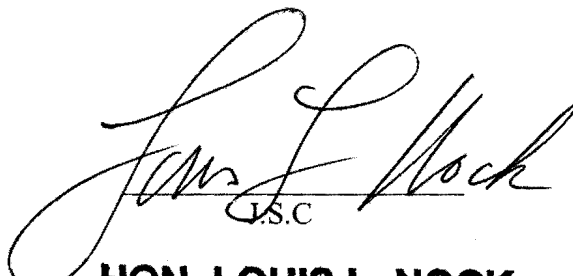
ORDERED and ADJUDGED that on the first cause of action Plaintiff owes no duty to Defendants, JEFFERSON JUSTE, NEWYORK-PRESBYTERIAN/BROOKLYN METHODIST, NEW YORK PRESBYTERIAN AMBULANCE, EAST MANHATTAN DIAGNOSTIC IMAGING, P.C., ~~HAAR ORTHOPAEDICS & SPORTS MEDICINE, P.C.~~, FIRST ALTERNATIVE PLM ACUPUNCTURE P.C., METROPOLITAN MEDICAL & SURGICAL P.C., AVALON RADIOLOGY P.C., PAIN FREE LEAVING INC, TRIM MEDICAL SERVICES P.C., GRAMERCY PARK PHYSICAL THERAPY P.C., CURVE CHIROPRACTIC P.C., and ELECTROPHYSIOLOGIC MEDICAL DIAGNOSTICS, P.C., to pay No-Fault claims submitted

in relation to the July 1, 2014 loss, Claim No.: 000296827-001, Policy.: PS9361794 13, referenced in the complaint involving JEFFERSON JUSTE, and it is further,

ORDERED and ADJUDGED that on the second cause of action that all arbitrations, lawsuits and enforcement of awards or judgments in connection with the July 1, 2014 loss, Claim No.: 000296827-001, Policy.: PS9361794 13, referenced in the complaint involving JEFFERSON JUSTE, are hereby permanently stayed.

This constitutes the decision and order of the court. The County Clerk is directed to enter Judgment accordingly.

Dated: 3/30/2021


J.S.C.

HON. LOUIS L. NOCK
J.S.C.